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JUL 30 2004

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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Of Counsel
Robert Bennett Lubic*

July 29, 2004

*not admitted in MD

HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals, TW-A325
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 04-224
RM-10853
RM-10854

Dear Ms. Dortch:

Transmitted herewith on behalf of Steven M. Greeley are an original and four (4) copies of his Comments and Counterproposal in the above referenced Proposed Amendment of the FM Table of Allotments for Lake Havasu City, Arizona, and Pahrump, Nevada.

Should further information be desired in connection with this matter, please communicate with this office.

Sincerely,



Robert L. Olender
Counsel for
Steven M. Greeley

RLO/mp

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

ORIGINAL

In the Matter of

Amendment of Section 73.202(b))	MB Docket No. 04-224
Table of Allotments)	RM-10853
FM Broadcast Stations.)	RM-10854
(Lake Havasu City, Arizona and Pahrump, Nevada)		

TO: Marlene H. Dortch, Secretary

For transmission to:

John A. Karousos
Assistant Chief, Audio Division

COMMENTS AND COUNTERPROPOSAL OF STEVEN M. GREELEY

1. Steven M. Greeley hereby submits his comments in response to the Notice of Proposed Rulemaking ("*NPRM*"), DA 04-1652, released June 10, 2004 in the above-captioned proceeding. As set forth below, Mr. Greeley continues to support the proposal which he originally advanced, *i.e.*, the substitution of Channel 272C for Channel 272B at Lake Havasu City, Arizona, and the reallocation of Channel 272C from Lake Havasu City to Pahrump, Nevada. And while the *NPRM* includes a second option which appears to be mutually exclusive with Mr. Greeley's proposal, as set forth below and in the accompanying Engineering Statement,

at least one alternative exists which will accommodate both proponents. Mr. Greeley requests that that alternative be considered a counterproposal to the *NPRM*.¹

2. As set forth in the *NPRM*, Mr. Greeley proposed the allotment of Channel 272C to Pahrump. At the same time, SSR Communications Incorporated ("SSR") proposed the allotment of Channel 272C3 to Pahrump. In order to accommodate both proposals, Mr. Greeley hereby proposes that, in addition to the reallocation of Channel 272C to Pahrump for his use in connection with Station KJJJ(FM), the Commission also allot Channel 261C3 to Pahrump, which channel would be available for SRS (and any other interested applicant) to bid for at the Commission's invitation. As set forth in the accompanying Engineering Statement, the allotment of those two channels would be consistent with all applicable technical standards and would not require the disruption or relocation of any existing station or pending application.²

¹ Mr. Greeley is mindful of the policy prohibiting counterproposals to one's own initial allotment proposal, *see, e.g., Taccoa et al., Georgia*, MM Docket No. 98-162, DA 01-2784, released November 30, 2001. The counterproposal included herein is *not* intended as a counterproposal to Mr. Greeley's original proposal and, thus, is not inconsistent with the policy articulated in the *Taccoa* decision. Rather, Mr. Greeley's counterproposal is intended to accommodate the SSR proposal, about which Mr. Greeley was unaware when he filed his original proposal.

² The allotment of Channel 261C3 to Pahrump would require that Channel 261 at Beatty, Nevada, be assigned Class A status. Channel 262 was originally allotted to Beatty as a Class A channel. *See* BPH-19970925MM (initial construction permit for since-deleted Station KNVR(FM), Beatty). However, in 1997 the KNVR permittee applied for a one-step upgrade to substitute Channel 261 as a Class C in Beatty. While that application was granted and the table of allotments modified to reflect the substituted and upgraded channel, the applicant/permittee in June, 2003, requested that its upgrade application be dismissed, its permit cancelled and its call sign deleted. The Commission granted those requests, without objection or request for reconsideration from the former permittee. Mr. Greeley submits that, under these circumstances, the public interest justifies returning the classification of the Beatty channel to Class A. The public has already been denied service for years by the machinations of the former Beatty permittee. As demonstrated in the attached Engineering Statement, downgrading Beatty channel to its original Class A status and substituting Channel 287A there will permit improvement of service to Pahrump. In light of those circumstances, such treatment is warranted. *See, e.g., West Rutland, Vermont*, MM Docket No. 00-12, DA 01-1389, released June 8, 2001. Mr. Greeley notes that, to the extent that the class of the replacement channel may

(Footnote continued on next page)

3. Mr. Greeley believes that the public service will be served by allotments which will accommodate both his proposal and that of SSR. But in the event that the Commission determines that no such accommodation is possible, Mr. Greeley submits that his proposal is superior to that of SSR. While SSR's proposal would limit use of Channel 272 to Class C3, Mr. Greeley proposes to use it as a full-powered Class C capable of serving extensive, sparsely settled areas. The area in the vicinity of Pahrump is precisely such an area. Thus, Mr. Greeley's proposal would be consistent with the longstanding purpose of Class C channels. *See, e.g., Revision of FM Broadcast Rules*, 40 FCC 662, 682 (1962). And as demonstrated in the attached Engineering Statement, a Class C station will serve considerably more listeners over a much wider area than would a Class C3 operation – that is, the available spectrum would be used far more efficiently and effectively by Mr. Greeley's proposal.

4. REC Networks ("REC") has filed comments in response to the *NPRM* in which it suggests that allotment of a Class C station to Pahrump would "only result in radiation of signals into significant area where there is no population and no significant thoroughfares." REC Comments at (unnumbered) 2. But that claim ignores the purpose of Class C channels which, as noted above, is to provide widespread service to sparsely-settled areas. And as far as "significant thoroughfares" are concerned, as set forth in the Engineering Statement hereto, the allotment proposed by Mr. Greeley would provide service to well-traveled stretches of Route 95 (which the Nevada Department of Transportation ("NDOT") characterizes as a "principal arterial"), and

(Footnote continued from preceding page)

be deemed in any way material, Channel 287 could be upgraded to Class C2 at Beatty. Thus, the Commission has ample alternatives with which to provide a suitable allotment to Beatty, should the Commission see fit to do so.

Routes 373 and 160 (both “rural major collectors” according to NDOT), as well as a portion of Interstate Highway 15 and a number of other significant thoroughfares.

5. As a practical matter, it appears that REC’s primary interest is to protect the possible “expansion of LPFM stations in the rural portions of Southern California and Nevada.” *Id.* While that may be a laudable goal in some respects, it ignores the secondary status of LPFM service. The possibility of full-service utilization of an FM channel – utilization completely consistent with the underlying purpose of such channels – should not be prevented simply to leave open the possible proliferation of secondary service. Such an approach would turn the Commission’s allotment priorities on their head.

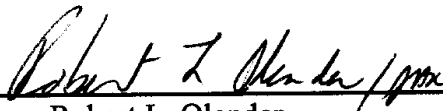
6. In its Comments, SSR also suggests that Mr. Greeley’s proposal may be less than maximally desirable because it would result in the loss of a service to Lake Havasu City. While Mr. Greeley’s proposal does contemplate relocation of Station KJJJ(FM) from Lake Havasu City to Pahrump, Lake Havasu City would still retain four local FM stations (and a local AM station) following that relocation. Certainly it cannot be said that Lake Havasu City (population approximately 42,000) would be underserved as a result. By contrast, Pahrump (population approximately 25,000) has only two FM stations, and no AM stations, licensed to it.³

7. In view of all of the foregoing, Mr. Greeley renews his proposal that Channel 272C be allotted to Pahrump and that the license of Station KJJJ(FM) be modified to specify operation

³ In any event, should the Commission believe that the loss of a channel in Lake Havasu City might influence in any way the decision here, the Commission should be aware that a number of channels are available to allotment to Lake Havasu City, should the demand for such allotments arise. *See* attached Engineering Statement. Mr. Greeley did not propose any such replacement allotment in his petition for rulemaking, nor is he proposing such replacement now. But he does wish the record of this proceeding to reflect that replacement channels are available, should the Commission, in response to SSR’s Comments, determine either that allotment of such a replacement channel would be in the public interest or, conversely, that removal of a Lake Havasu City channel would be contrary to the public interest.

on that re-located and re-classified channel. In the event that the Commission adopts that proposed allotment, Mr. Greeley hereby re-affirms his intention to apply for use of Channel 272C at Pahrump and, if that application is granted, to construct and operate Station KJJJ(FM) on Channel 272C at Pahrump.

Respectfully submitted


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July 30, 2004

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ENGINEERING EXHIBIT EE-RM-1:

**COMMENTS - MB DOCKET 04-224
RULE MAKING TO AMEND
FM TABLE OF ALLOTMENTS**

**DELETE CH. 272B AT LAKE HAVASU CITY, AZ
ALLOT CH. 272C TO PAHRUMP, NV**

JULY 27, 2004

**ENGINEERING STATEMENT PREPARED ON BEHALF OF
STEVEN M. GREELEY
LICENSEE OF KJJJ(FM)
CHANNEL 272B/C2 - LAKE HAVASU CITY, ARIZONA**

Facility ID: 63410



ENGINEERING EXHIBIT EE-RM-1:

**COMMENTS - MB DOCKET 04-224
RULE MAKING TO AMEND
FM TABLE OF ALLOTMENTS**

**DELETE CH. 272 AT LAKE HAVASU CITY, AZ
ALLOT CH. 272 TO PAHRUMP, NV**

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From City Ref. Point for Beatty, NV.
5. Figure 3, Channel Allocation Study for Ch.272C3
From City Ref. Point for Lake Havasu City, AZ
6. Figure 4, 60 dBu Coverage Map - 272C vs:272C3

Declaration

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an principal engineer in the firm of Mullaney Engineering, Inc., and that I have provided engineering services in the area of telecommunications since 1977. My qualifications as an expert in radio engineering are a matter of record with the Federal Communications Commission.

The firm of Mullaney Engineering, Inc., has been requested by Steven M. Greeley, to prepare the instant engineering exhibit in support of comments in MB Docket 04-224 at Pahrump, NV.

All facts contained herein are true of my own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

/s/ John J. Mullaney

John J. Mullaney, Consulting Engineer

Executed on the 27th day of July 2004

ENGINEERING EXHIBIT EE-RM-1:

**COMMENTS - MB DOCKET 04-224
RULE MAKING TO AMEND
FM TABLE OF ALLOTMENTS**

**DELETE CH. 272 AT LAKE HAVASU CITY, AZ
ALLOT CH. 272 TO PAHRUMP, NV**

NARRATIVE STATEMENT:

This engineering statement has been prepared on behalf of Steven M. Greeley, licensee of Radio Station KJJJ(FM), at Lake Havasu City, Arizona (Facility ID 27982). The purpose of this statement is to provide comments in support of KJJJ's proposal in MB Docket 04-224. KJJJ has requested to amend the FM Table of Allotments to delete Ch. 272C2/B at Lake Havasu City and re-allot Ch. 272C to Pahrump, NV, and to modify the license of KJJJ(FM) accordingly. The KJJJ petition was determined to be **mutually exclusive** with a petition by SSR Communications, Inc., which proposes to allot Ch. 272C3 at Pahrump, NV, as a new FM service. Given that the two petitions propose sites which are only 9.6 km apart, it is clear only one can occupy Ch. 272 at Pahrump.

KJJJ has determined that it is possible to satisfy both petitions by modifying the SSR request to specify Ch. 261C3. Use of this alternate channel requires the modification of a Vacant allotment at Beatty, NV. In addition, KJJJ wishes to point out that it is possible to allot Ch. 272C3 to Lake Havasu City, AZ, as a partial replacement for the current KJJJ facility.

KJJJ(FM) wishes to point out that the upgrade it seeks is on its **existing channel** with a proposed location which is **less than** the separation specified by Section 73.207 and,

therefore, it is not necessary to demonstrate the availability of an additional equivalent channel in accordance with Section 1.420(g) of the rules.

The proposed reference point is not within 290 kilometers (180 miles) of a United States Border and, therefore, foreign concurrence is not required.

Modification of SSR Petition

Figure 1 demonstrates that Ch 261C3 can be allotted to Pahrump from a reference point which is located 6 km to the North-Northeast of the coordinates specified by SSR. The alternate coordinates proposed herein are 36-17-10 / 116-01-00. The alternate site is located within the city limits of Pahrump and will have an unobstructed view of the city. Use of this alternate channel will require a modification of the Vacant Ch. 261C allotment at Beatty, NV.

Modification of Beatty, NV

Figure 2 demonstrates that Ch 287A can be allotted to Beatty from the city reference point located at 36-54-31 / 116-45-30. Use of this channel does not require the modification of any other allotment.

Originally, Docket 97-6 allotted Ch. 262A to Beatty. A single 301 application was filed and granted on Ch. 262A. A modification of CP was subsequently filed requesting a one-step upgrade to 261C. On 6/5/2003, the permittee filed a letter requesting the cancellation of the CP and the dismissal of the license application. The allotment is now Vacant.

Given that the original 1997 allotment was for a Class A facility the substitution of 287A for 261C is consistent with FCC policy regarding forfeited permits modified via one-step procedures. It should be noted that 287C2 also complies with the FCC rules from this city reference site should someone want to upgrade the facility at a later date.

Replacement Channel at Lake Havasu City, AZ

Figure 3 demonstrates that Ch 272C3 can be allotted as a replacement channel at Lake Havasu City from the city reference point located at 34-28-41 / 114-19-40. Use of this channel is contingent upon the deletion of Ch. 272B. KJJJ does not believe that the addition of this replacement channel constitutes an unwarranted counterproposal of its original proposal. If the replacement channel is allotted, KJJJ will file an application for it during the appropriate auction window.

Public Interest Showing

KJJJ(FM) presently holds a CP to operate as a Class B FM facility with maximum equivalent facilities (4.5 kW at 467 meters HAAT). The proposed change in community & **upgrade to Class C facilities** will permit KJJJ(FM) to serve a wider area and more population. KJJJ(FM) CP on 272B will provide a 60 dBu service to 110,920 persons and 8,730 square kilometers. KJJJ(FM) anticipates construction of a maximum Class C facility which will potentially provide 60 dBu service to 887,895 persons and 26,370 square kilometers (2000 Census). This represents a 700% increase in population and a 202% increase in area.

The **replacement allotment** on Ch. 272C3 at Lake Havasu City will provide service to 66,120 persons of which 57,000 persons are presently receiving theoretical service from 272B.

The allotment on **Ch. 261C3 at Pahrump** will provide service to 25,265 persons. It should be noted that this is some 200 persons greater than the SSR proposal.

Figure 4 is a map which illustrates the 60 dBu coverage contour of the originally submitted proposals to allot 272C & 272C3 at Pahrump. The map clearly shows that the 272C proposal will provide additional coverage along major roadways in the area.

Based upon the above information, KJJJ(FM) believes that its **proposed resolution** results in a preferential arrangement of allotments and therefore, serves the public interest.

SUMMARY OF COMMENTS - MB DOCKET 02-224

Steven M. Greeley, licensee of Radio Station KJJJ(FM), at Lake Havasu City, Arizona (Facility ID 27982) requests that the FM Table of Allotments be amended to delete Ch. 272C2/B at Lake Havasu City, AZ and re-allot Ch. 272C to Pahrump, NV, and to modify the license of KJJJ(FM) accordingly.

	Present	Proposed
Lake Havasu City, AZ	216A, 244C2, 266C2, 272C2/B , 283C2	216A, 244C2, 266C2, 272C3 # , 283C2
Pahrump, NV	234C-RM-ADD 236A->250A-RM, 298C	234C-RM-ADD 236A->250A-RM 261C3, 272C, 298C
Beatty, NV	262C	287A

-> Channel Change by Rulemaking. # - Optional Addition

KJJJ(FM) believes that its **proposed resolution** results in a preferential arrangement of allotments and therefore, serves the public interest. If granted, KJJJ(FM) will quickly file an application for construction permit.

/s/ John J. Mullaney

John J. Mullaney, Consulting Engineer

July 27, 2004.

COMMENTS - MB DOCKET 04-224 - STEVEN M. GREELEY

REFERENCE

36 17 10 N
116 01 00 W

CLASS = C3

Current Spacings

Channel 261 - 100.1 MHz

DISPLAY DATES

DATA 07-10-04

SEARCH 07-12-04

Call	Channel	Location	Dist	Azi	FCC	Margin
ALLO-A	VAC 261C	Beatty	NV 106.13	318.1	236.5	-130.37 See Fig 2
ALLO-A	VAC 261A	Beatty	NV 106.13	318.1	141.5	-35.37 See Fig 2
KMZQFM	LIC 263C	Henderson	NV 96.07	108.5	95.5	0.57
KHWZ	LIC-N 261B1	Ludlow	CA 175.32	184.0	174.5	0.82
KHWZ.C	CP -N 261B1	Ludlow	CA 175.34	184.0	174.5	0.84
RS259	RSV 259B	Mountain Pass	CA 97.49	154.8	70.5	26.99
KHYZ	LIC 259B	Mountain Pass	CA 97.49	154.8	70.5	26.99
AL261	RSV 261C2	Kingman	AZ 233.13	123.5	176.5	56.63
KGMN	LIC 261C2	Kingman	AZ 233.13	123.5	176.5	56.63
AL260	RSV 260C	St. George	UT 234.48	73.8	175.5	58.98
KONY	LIC 260C	St. George	UT 234.48	73.8	175.5	58.98

Special Reference Point within city of Pahrump, NV.

Allotment at Beatty, NV, was originally for Ch. 262A.

CHANNEL STUDY - 261C3 - NEW ALLOTMENT PAHRUMP, NV

STEVEN M. GREELEY - KJJJ(FM)
COMMENTS - DOCKET 04-224
LAKE HAVASU CITY, AZ & PAHRUMP, NV

MULLANEY ENGINEERING, INC.
GAITHERSBURG, MARYLAND

FIGURE 1
JULY 2004

COMMENTS - MB DOCKET 04-224 - STEVEN M. GREELEY

REFERENCE		CLASS = A	DISPLAY DATES
36 54 31 N			DATA 07-10-04
116 45 30 W	Current	Spacings	SEARCH 07-12-04
----- Channel 287 - 105.3 MHz -----			

Call	Channel	Location	Dist	Azi	FCC	Margin
KQRT	LIC 286C2	Las Vegas	NV 140.32	116.7	106.0	34.32
ALLO	USE 286C2	Las Vegas	NV 143.15	118.0	106.0	37.15
RADD	ADD 290C	Pahrump	AZ 153.81	132.6	95.0	58.81
KRSXFM	LIC-N 287B1	Yermo	CA 212.38	181.9	143.0	69.38

City Reference Point of Beatty, NV.

Allotment at Beatty, NV, was originally for Ch. 262A.

Channel 287 also complies with C2 operation.

CHANNEL STUDY - 287A - SUBSTITUTE - BEATTY, NV

STEVEN M. GREELEY - KJJJ(FM)
COMMENTS - DOCKET 04-224
LAKE HAVASU CITY, AZ & PAHRUMP, NV

MULLANEY ENGINEERING, INC.
GAITHERSBURG, MARYLAND

FIGURE 2
JULY 2004

COMMENTS - MB DOCKET 04-224 - STEVEN M. GREELEY

REFERENCE		CLASS = C3	DISPLAY DATES
34 28 41 N			DATA 07-27-04
114 19 40 W	Current	Spacings	SEARCH 07-27-04
----- Channel 272 - 102.3 MHz -----			

Call	Channel	Location	Dist	Azi	FCC	Margin
KJJJ.C	CP 272B	Lake Havasu City	AZ 30.13	319.2	210.5	-180.37 MX
RDEL	DEL 272B	Lake Havasu City	AZ 30.13	319.2	210.5	-180.37 MX
KJJJ	LIC 272C2	Lake Havasu City	AZ 14.78	56.3	176.5	-161.72 MX
RADD	ADD 272C	Pahrump	NV 257.39	320.7	236.5	20.89 KJJJ
KAHM	LIC 271C	Prescott	AZ 204.16	82.8	175.5	28.66
RADD	ADD 272C1	Overton	NV 254.85	0.4	210.5	44.35
KJJZ	LIC-N 272A	Indio	CA 187.66	249.4	141.5	46.16
AL275	VAC 275C3	Quartzsite	AZ 90.76	174.2	42.5	48.26
AL270	VAC 270A	Salome	AZ 101.63	139.4	41.5	60.13
AL269	RSV 269C3	Bagdad	AZ 104.35	82.0	42.5	61.85
AL269	VAC 269C3	Bagdad	AZ 104.35	82.0	42.5	61.85
KNIXFM	LIC 273C	Phoenix	AZ 244.84	120.7	175.5	69.34

City Reference Point of Lake Havasu City, AZ.

Allotment of 272C3 contingent upon deletion of KJJJ 272B/C2.

CHANNEL STUDY - 272C3 - REPLACEMENT- LAKE HAVASU

STEVEN M. GREELEY - KJJJ(FM)
COMMENTS - DOCKET 04-224
LAKE HAVASU CITY, AZ & PAHRUMP, NV

MULLANEY ENGINEERING, INC.
GAITHERSBURG, MARYLAND

FIGURE 3
JULY 2004

FIGURE 4 - 60 dBu COVERAGE

MB DOCKET 04-224

ADD272C
Pahrump NV

Latitude: 36-15-25 N
Longitude: 116-08-45 W
ERP: 100.00 kW
Channel: 272 C
Frequency: 102.3 MHz
AMSL Height: 1475.08 m
Elevation: 1223.32 m
Horiz. Pattern: Omni
Vert. Pattern: No



JULY 2004

POPULATION SERVED WITHIN 60 dBu

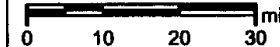
272C	887,895
272C3	25,065

2000 Census
Max Facilities

ADD272C3
Pahrump NV

Latitude: 36-14-09 N
Longitude: 116-02-32 W
ERP: 25.00 kW
Channel: 272 C3
Frequency: 102.3 MHz
AMSL Height: 971.2 m
Elevation: 779.97 m
Horiz. Pattern: Omni
Vert. Pattern: No

Scale 1:1,500,000



Scale 1:1,500,000

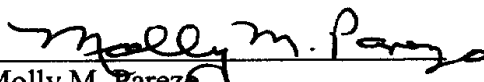


CERTIFICATE OF SERVICE

I, Molly M. Parezo, secretary at Koerner & Olender, P.C., do hereby certify that on this 30th day of July, 2004, I caused a copy of the foregoing **"Comments and Counterproposal of Steven M. Greeley"** to be served by first-class mail, postage prepaid, to the following:

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Mesa, AZ 85274-0616


Molly M. Parezo